



The Legal 500 & The In-House Lawyer
Comparative Legal Guide
UAE: Employment & Labour Law

This country-specific Q&A provides an overview to employment and labour law in United Arab Emirates (UAE).

It will cover termination of employment, procedures, protection for workers, compensation as well as insight and opinion on the most common difficulties employers face and any upcoming legal changes planned..

This Q&A is part of the global guide to Employment & Labour. For a full list of jurisdictional Q&As visit <http://www.inhouselawyer.co.uk/index.php/practice-areas/employment-labour-law/>



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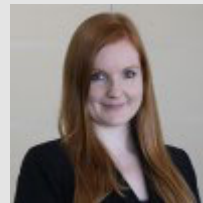
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1. Does an employer need a reason in order to lawfully terminate an employment relationship? If so, what reasons are lawful in the jurisdiction?

The employment relationship can be terminated for the following reasons:

- If both the employer and employee agree to terminate the relationship (provided that the employee's consent is in writing);
- If the duration of a fixed term contract has expired (and such period has not been extended, whether expressly or implicitly); or

- For unlimited duration contracts, if either the employer or employee gives 30 days prior written notice to the other party, citing a “legitimate” reason.

The employer also has the right to terminate an employment relationship without notice in the following specific circumstances:

- If the employee has assumed a fake identity or nationality or has provided fake qualifications or documents;
- Prior to the end of the probation period;
- If the employee has caused substantial material loss to his employer (but the employer must have notified the Department of Labour within 48 hours of his becoming aware of such acts);
- If the employee has not complied with any safety instruction (as long as such instruction was in writing and displayed prominently at the workplace, or it has been otherwise provided to the employee if he is illiterate);
- Failure by the employee to complete his duties (as long as he has been provided with written notice of the failure and has still failed to rectify it);
- If the employee discloses his employer’s secrets;
- If the employee is convicted of a crime involving honour, honesty or public morals (but the conviction must be final and have been given by a competent court);
- If the employee is discovered to be under the influence of drugs or alcohol during his working hours;
- If the employee assaults his employer, manager or colleague during his working hours;
- If the employee takes a leave of absence, without a valid reason, for more than 20 days (consecutive or otherwise) in any one year, or for more than seven consecutive days; or
- If the employee works for another employer during annual leave or sick leave.

2. What, if any, additional considerations apply if large numbers of dismissals (redundancies) are planned?

An employment contract must be terminated individually. There are no special

provisions for collective redundancies.

3. What, if any, additional considerations apply if a worker's employment is terminated in the context of a business sale?

An employee would not automatically be transferred to the new employer in the event of a business sale. Instead, it must be decided whether all or a portion of the work force will transfer to the new employer. For each of the employees who will not transfer, the employer must abide by the termination provisions of the Labour Law, Federal Law No. 8 of 1980, as amended.

4. What, if any, is the minimum notice period to terminate employment?

An unlimited term employment contract requires 30 days' prior written notice to be terminated.

However, for employees paid daily, the following notice periods apply:

- One week's notice if the employee has been employed for between six months and one year;
- Two weeks' notice if the employee has been employed for at least one year; and
- One month's notice if the employee has been employed for at least five years.

5. Is it possible to pay monies out to a worker to end the employment relationship instead of giving notice?

An employee cannot be paid in lieu of notice. Even if the employee will not be required to work during the notice period, the calculation of the employee's termination benefits must still treat the final date of the notice period as the final day of service. The 30 day notice period can be extended but it cannot be waived or reduced.

6. Can an employer require a worker to be on garden leave, that is,

continue to employ and pay a worker during his notice period but require him to stay at home and not participate in any work?

While the Labour Law does not specifically provide for garden leave, an employer can pay an employee during his notice period but require him to stay at home.

7. Does an employer have to follow a prescribed procedure to achieve an effective termination of the employment relationship? If yes, what are the requirements of that procedure or procedures?

The Labour Law does not prescribe a procedure for an employer to follow to terminate the employment relationship, other than that termination of an unspecified term contract must be for a legitimate reason, must be in writing and must be given 30 days in advance of such termination. It is permissible to terminate a specified term contract only if one of the grounds for termination without notice (discussed above in section 1) can be proved to apply.

8. If the employer does not follow any prescribed procedure as described in response to question 7, what are the consequences for the employer?

If an employer purports to terminate the services of an employee otherwise than in accordance with the requirements of the Labour Law, then such termination would be treated as wrongful.

9. How, if at all, are collective agreements relevant to the termination of employment?

There is no provision for collective agreements in the UAE.

10. Does the employer have to obtain the permission of or inform a third party (e.g local labour authorities or court) before being

able to validly terminate the employment relationship? If yes, what are the sanctions for breach of this requirement?

The employer of a national of the UAE must notify the Ministry of Human Resources and Emiratisation in the event that he intends to terminate the employment contract. He must notify the Ministry at least 30 days before such termination is due to take effect. The employer will be in breach if he has terminated the UAE national without cause, if he has hired a foreign employee to do a similar role or if he has failed to pay the employee what he was entitled to be paid.

If the employer has unlawfully dismissed such UAE national employee, the Ministry can block any new labour permits being issued to the employer until the matter is resolved by the courts.

When the services of a non-UAE national employee come to an end, the employer is responsible for complying with the procedures for terminating the employee's Labour Permit and Residence Visa and repatriating the employee to his country of recruitment.

11. What protection from discrimination or harassment are workers entitled to in respect of the termination of employment?

The Labour Law prohibits arbitrary termination of employment, and termination for a discriminatory reason would probably be viewed locally as arbitrary termination. If an employee is compelled to resign because of harassment, then the employee could bring a complaint against the employer for constructive termination. In either case, compensation for wrongful termination, discussed below, could be payable.

In addition, some acts of harassment could rise to the level of criminal offenses, and some acts of discrimination might breach other statutes. For example, Federal Decree-Law No. 2 of 2015 introduced general restrictions on discrimination and hate crimes. It provides that a person cannot be discriminated against because of his religion, creed, doctrine, sect, caste, race, colour or ethnic origin. This law could apply to discrimination in an employment context, whether during the recruitment process or during the employment.

In addition, the Dubai International Financial Centre (the “DIFC”) and the Abu Dhabi Media Free Zone (the “ADM”) have their own employment regulations, which contain specific anti-discrimination provisions. The DIFC employment regulation also contains provision prohibiting harassment.

12. What are the possible consequences for the employer if a worker has suffered discrimination or harassment in the context of termination of employment?

As noted above, an employer could be liable for compensation for wrongful termination under the Labour Law. In addition, the employer could be exposed to criminal sanctions or sanctions under Federal Decree-Law No. 2 of 2015, depending on the specific facts of the discrimination or harassment at issue.

13. Are any categories of worker (for example, fixed-term workers or workers on family leave) entitled to specific protection, other than protection from discrimination or harassment, on the termination of employment?

The Labour Law does not expressly provide for protected classes of workers. However, the UAE Cabinet, following request by the Minister of Human Resources and Emiratisation, can impose any rules that may be more favourable to a national employee.

In addition, if an employee (of any nationality) suffers a partial disability, his employer must allow him to carry out another role if he is capable of doing so, and he wants to undertake that other role (and his employer must pay him the same as a non-disabled employee doing the same role). Furthermore, the Labour Law states that a woman must be paid the same as a man, if she is doing the same role.

14. Are workers who have made disclosures in the public interest (whistleblowers) entitled to any special protection from termination of employment?

If an employer terminates an employee as a reprisal for the employee having made a

complaint against him, the employee can claim wrongful termination and would be entitled to a maximum of three months' pay as damages. The Labour Law does not provide for dealing with anonymous complaints regarding regulatory violations. However, the Penal Code and Anti-Money Laundering Law do contain provisions protecting whistle-blowers.

15. What financial compensation is required under law or custom to terminate the employment relationship? How do employers usually decide how much compensation is to be paid?

Provided an employee has completed at least one year of service with his employer, he is entitled to an end of service gratuity upon termination of his employment contract. Such gratuity is calculated as follows: 21 days' pay for each of the first five years of employment and 30 days' pay for each year thereafter (subject to a maximum of two years' salary). It will be calculated excluding any payments made to the employee such as housing or travel allowances, overtime pay and any other similar allowances.

If an employee terminates his unlimited duration contract, he will be entitled to the following gratuity: (i) one-third if he terminates during years one and three of his employment, (ii) two-thirds if he terminates during years three and five, and (iii) full gratuity if he terminates after year five.

If the employee has a fixed duration contract, he will only be entitled to be paid the gratuity if he terminates his contract after five years of service.

If either the employer or employee terminates the contract in breach of the Labour Law, he will liable to pay the other party compensation as follows:

- In the case of the employer being in breach, compensation will be the lesser of three months' salary or the salary that would have been paid for the remainder of the contract (unless the employment contract provides for a higher amount); and
- In the case of the employee being in breach, compensation will be capped at one-half the amount that would be paid by the employer if the employer was in breach.

The employer will be liable to pay the costs of repatriating the employee to his home

country, unless such employee takes up new employment in the UAE or if he resigns and can pay for repatriation himself.

16. **Can an employer reach agreement with a worker on the termination of employment in which the employee validly waives his rights in return for a payment? If yes, describe any limitations that apply.**

An employee cannot waive his rights under the Labour Law.

17. **Is it possible to restrict a worker from working for competitors after the termination of employment? If yes, describe any relevant requirements or limitations.**

A non-competition clause can be used in an employment contract. However, such clause would only be valid if the employee was at least 21 years old when he signed his employment contract, it is restricted to a limited period (one year is usually considered appropriate), location, nature and only to the extent required to protect the employer's business.

Whilst the Labour Law provides for the use of non-competition clauses, there is no injunctive relief in the UAE courts so such clauses may be difficult to enforce.

18. **Can an employer require a worker to keep information relating to the employer confidential after the termination of employment?**

There are no limitations on confidentiality under the Labour Law.

19. **Are employers obliged to provide references to new employers if these are requested?**

An employer is not obliged to provide a reference to new employers. However, if requested by the employee at the end of his employment, the employer must provide

the employee with an end of service certificate. Such certificate should state the beginning and end dates of the employment, the total duration, the type of work undertaken and the last salary paid to the employee (plus details of any other allowances).

20. What, in your opinion, are the most common difficulties faced by employers in your jurisdiction when terminating employment and how do you consider employers can mitigate these?

A multinational company must bear in mind that an employee in the UAE could have labour law benefits under UAE law as well as the laws of the employee's home country. When termination of services occurs, care must be taken to ensure that the employer-employee relationship is brought to an end under both sets of laws. Both sets of employment laws must be addressed. It would be undesirable for the employer to settle the benefits of the employee under UAE law, but later find that the employee could assert further home-country benefits.

A somewhat related problem is that many multinational employers maintain savings or pension plans that are designed to provide the same kinds of benefits that are provided by the local end-of-service gratuity. An often-unintended consequence is that a departing employee may receive both sets of benefits. This result can often be avoided by careful drafting of the local employment agreement. An express stipulation that the foreign savings or pension benefits would replace the local end-of-service gratuity would normally be enforced by the local courts, but such replacement would not necessarily be implied in the absence of an express stipulation.

21. Are any legal changes planned that are likely to impact on the way employers in your jurisdiction approach termination of employment? If so, please describe what impact you foresee from such changes and how employers can prepare for them?

It is widely acknowledged that the UAE Labour Law is in need of amendment so that it can more appropriately address the requirements of today's workforce. However, no specific measures are under consideration at the present time.